

TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

Committee:	Planning
Date:	22 June 2021
Site Location:	Badgerbank Bushcombe Lane Woodmancote Cheltenham Gloucestershire GL52 9QL
Application No:	21/00274/FUL
Ward:	Cleeve Hill
Parish:	Woodmancote
Proposal:	Variation of condition 2 (drawing schedule) of the planning application ref number 19/00082/FUL to allow for a revised outbuilding design.
Report by:	John Hinett
Appendices:	Site Location Plan Elevations
Recommendation:	Permit

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The proposal relates to an area of land around a Dutch barn located within the grounds of 'Badgerbank', a dwelling located on the mid slopes of Cleeve Hill in Woodmancote.
- 1.2 The site is situated within the Cotswolds Area of Outstanding Natural Beauty (AONB).

2.0 RELEVANT PLANNING HISTORY

Application Number	Proposal	Decision	Decision Date
T.337/C	Erection of loose boxes and agricultural stores.	PERMIT	18.03.1958
98/00523/FUL	Erection of a detached garage (revised scheme) to include dormer windows	PERMIT	21.07.1998
04/00357/FUL	Open sided covered veranda	PERMIT	17.05.2004
17/01153/FUL	Erection of dwelling and associated works (Following approval for conversion of existing stable building to a dwelling approved as part of 15/00905/FUL)	REFUSE	23.02.2018

19/00082/FUL	Erection of a detached dwelling and car port (Revised scheme Ref: - 17/01153/FUL)	PERMIT	26.04.2019
19/00052/NMA	Non material minor amendment for planning application 19/00082/FUL (Erection of a detached dwelling and car port).	GRANT	28.01.2020
21/00001/NMA	Non material amendment for planning application 19/00082/FUL	GRANT	22.01.2021
21/00269/FUL	Erection of retaining walls.	PERMIT	28.05.2021

3.0 RELEVANT POLICY

3.1 The following planning guidance and policies are relevant to the consideration of this application:

National guidance

National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) - Adopted 11 December 2017

SD4 (Design Requirements).

SD7 (The Cotswolds Area of Outstanding Natural Beauty) D8 (Historic Environment).

SD10 (Residential Development).

INF1 (Transport Network).

Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life).

The First Protocol, Article 1 (Protection of Property).

4.0 CONSULTATIONS

Woodmancote Parish Council –

- Object unanimously to a further extension of this site. The original planning permission was granted on appeal against application 17/01153/FUL. The inspector made it abundantly clear in planning conditions 4,5 and 6 that no enlargement of the property should be permitted.
- We do not accept that the proposed use of the extension as storage/workshop etc and it is easy to see that this is simply allowing for additional parking and/or residential accommodation. This is an enlargement.
- Woodmancote parish council has objected to this application throughout as we believe that it intrudes negatively into the AONB. Whilst the inspector felt that there was sufficient mitigation to offset this, it would be improper to allow any enlargement to the proposed works when it is contrary to the clear instructions given in the above planning conditions set by the inspector.

- Furthermore, additional space in the carport inevitably means more cars and therefore more traffic on Bushcombe Lane which is most unsuitable for traffic. This was never a sustainable site as it is totally dependent on the car for all services. This application to extend further merely proves the point.

Full copies of all the consultation responses are available online at

<https://publicaccess.tewkesbury.gov.uk/online-applications/>

5.0 PUBLICITY AND REPRESENTATIONS

- 5.1 The application has been publicised through the posting of a site notice for a period of 21 days. No representations have been received.

Full copies of all the representation responses are available online at

<https://publicaccess.tewkesbury.gov.uk/online-applications/>

6.0 POLICY CONTEXT

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 6.2 The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), saved policies of the Tewkesbury Borough Local Plan to 2011 (March 2006) (TBLP), and a number of 'made' Neighbourhood Development Plans.
- 6.3 The Pre-Submission Tewkesbury Borough Plan was submitted to the Secretary of State for Housing, Communities and Local Government on 18 May 2020 for examination. On the basis of the stage of preparation it has reached it is considered that the plan can be afforded at least moderate weight. However, the weight to be attributed to individual policies will be subject to the extent to which there are unresolved objections (the less significant the unresolved objections, the greater the weight that may be given) and their degree of consistency with the NPPF (the closer the policies to those in the NPPF the greater the weight that may be given).
- 6.4 The relevant policies are set out in the appropriate sections of this report.

7.0 ANALYSIS

Proposal

- 7.1 Section 73 of the Town and Country Planning Act 1990 allows for applications to be made for the variation or removal of a condition on an existing planning permission. One of the uses of a section 73 application is to allow applicants to seek a minor material amendment to an existing planning permission (for example, a change to design), where there is a relevant condition referring to a list of approved plans.
- 7.2 The existing permission (19/00082/FUL) for a detached dwelling also proposed a detached 5 bay car port open on one side. The building was to be set back into a cutting into the sloping contours of the site with a Cotswolds stone retaining wall (see approved plans).

- 7.3 The current application proposes to change the car port to a larger building that would comprise 3 open bay car spaces, a workshop and store (**see proposed plans**).

Principle of development

- 7.4 Criterion 4 (ii) of Policy SD10 'Residential Development' of the JCS sets out that on sites that are neither allocated or previously developed land, housing development will be permitted, except where otherwise restricted by policies within district plans, where it would represent infill within the existing built up areas of Tewkesbury Borough's towns and villages.
- 7.5 The principle of residential development on this site has been established by the previous permission 19/00082/FUL.
- 7.6 The main issue in the consideration of the current application is therefore whether the proposed larger building would have an acceptable impact on the Area of Outstanding Natural Beauty (AONB).

Impact on the Area of Outstanding Natural Beauty

- 7.7 The site is within the Cotswolds Area of Outstanding Natural Beauty (AONB) Policy SD7 of the JCS requires that all proposals conserve, and where appropriate, enhance the AONB's landscape. In its intention, this reflects Section 85 of the Countryside and Rights of Way (CROW) Act 2000, which gives a statutory duty to conserve and enhance the natural beauty of the AONB. The Cotswolds AONB Management Plan (2013-2018) is prepared by the Cotswolds Conservation Board and is the statutory plan which sets out the Boards' policies for the management of the Cotswolds AONB and for the carrying out of its functions in relation to it.
- 7.8 Application (17/01153/FUL) for the replacement dwelling was originally allowed on Appeal. In determining that Appeal the Inspector reasoned that although the proposed dwelling would be larger than the stable building it would replace, it would be partially set into the sloping site and its use of drystone walling on its exterior would be likely to soften its appearance. He also noted that from the surrounding footpaths, the proposed dwelling "...would also be seen to varying degrees in the context of the other existing surrounding buildings and dwellings including the more prominent Badgerbank to the east of the site at a higher level." The Inspector concluded that there would be "...no adverse environmental or visual impact on the form, character or setting of the settlement and no significant encroachment into the surrounding countryside."
- 7.9 In coming to this decision, the Inspector considered it necessary to impose a planning conditions removing permitted development rights for, amongst other things, any extensions or enlargement of the building, outbuildings or means of enclosure.
- 7.10 Subsequent application 19/00082/FUL permitted a change to the permitted a dwelling of a similar design, but in a slightly different location that was required due to ground conditions. That application also included an ancillary detached car port. The car port was to be open fronted with timber cladding under a natural blue slate roof. In the delegated report, the planning officer considered that: *"The addition of the car port, although acknowledged that it has a fairly large footprint, it is of a design of a simple agricultural building such as the stable block currently onsite, and it remains open fronted, and is of timber cladding structure. The carport will be read in conjunction with the other buildings on site and will not be seen as a standalone building."*

- 7.11 The approved car port had a footprint of approximately 95sq.m, a ridge height of 3.2m with eaves at 2.1m. The building was to be set back into a large excavation / cutting set back into the sloping terrain, held back by a Cotswold Stone retaining wall. The excavation was such that it provided a large space behind, and to either side of the car port. The section plans also indicated that the eaves of the building would be lower than the height of the retaining wall with the ridge being just slightly higher.
- 7.12 The building subject of the current application would be almost double the size with a footprint of approximately 202sq.m, a ridge height of 4m with eaves at 2.4m. The building would be constructed of Cotswold stone to the front elevation and timber cladding to the sides and a slate roof. Whereas the permitted building would have 5 open-sided bays, the current proposed building would only have 3 open carport bays, with a workshop at the southern end of the building, and store at the other end: both enclosed. The building would therefore have a more solid appearance than the car port building.
- 7.13 However, it is the case that the proposed building would be similarly set back into the contours of the site in the same way as the previous car port building. Whilst the building would be longer and slightly taller than the permitted car port, its additional size and bulk would be set into the contours of the site, with only roof being visible from views outside the site. It is also material that the building would be set partly behind an existing large Dutch barn.
- 7.14 In view of the above., it is not considered therefore, that the proposed building would have a significantly more harmful impact on the AONB than the previously approved carport building.

Design and layout

- 7.15 JCS Policy SD4 provides that new development should respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and addressing the urban structure and grain of the locality in terms of street pattern, layout, mass and form. It should be of a scale, type, density and materials appropriate to the site and its setting.
- 7.16 The proposed building would be constructed using natural Cotswold Stone walling, natural blue slate tiles for the roof and vertical timber cladding for the gable ends. The design would be simple and utilitarian and characteristic of an agricultural building that area common feature in the countryside. The use of natural materials would be high quality and similarly appropriate. The building would quickly weather down and assimilate well into the surrounding landscape.

Residential amenity

- 7.17 JCS policies SD4 and SD14 require development to enhance comfort, convenience and enjoyment through assessment of the opportunities for light, privacy and external space. Development should have no detrimental impact on the amenity of existing or new residents or occupants.
- 7.18 By virtue of its siting, well away from neighbouring properties, it is not considered there would be any adverse impact on their amenity.

Highway Matters

- 7.19 Policy INF1 'Transport Network' states that developers should provide safe and accessible connections to the transport network to enable travel choice for residents and commuters.

- 7.20 The site would utilise an existing access and the Council has previously accepted that the use would not have an adverse impact on highway safety. Whilst the Parish Council have expressed concern that additional space in the carport would result in more cars and traffic on Bushcombe Lane, in fact the proposed building would only contain 3 parking bays; two less than the approved building.
- 7.21 Conditions from the previous application ensuring that parking and visibility splays are retained are carried forward to this application.

Other matters

- 7.22 Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.
- 7.23 All the conditions from the previous permission (**19/00082/FUL**) are carried forward to the current proposal. Where conditions from the previous permission have already been approved, the conditions are worded to require development is carried out in accordance with the details so approved.

8.0 CONCLUSION AND RECOMMENDATION

- 8.1 It is concluded that the proposal would accord with relevant policies as outlined above. Therefore it is recommended that planning permission be granted subject to the following conditions.

CONDITIONS:

- 1 The works hereby permitted shall be begun before 26 April 2024.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the application form, and drawing numbers:

- 2553-025 Rev B.
- 2553-02 Rev C.
- 2553-021 Rev B.
- 2553-026 Rev B.
- 2553-024 Rev B.
- 2553-028; Rev B.
- 2553-SK016.

except where these may be modified by any other conditions attached to this permission.

Reason: To ensure that the development is carried out in accordance with the approved plans.

3 All materials used shall conform to the following approved document and samples:

- natural dry stone walling.
- Canadian Western red cedar timber cladding.
- CUPA12 grey roof tiles.
- Discharge of Conditions June 2019 Rev A.

Reason: To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity.

4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension or enlargement of the dwelling hereby approved shall be carried out.

Reason: In the interests of visual amenity and the character of the area.

5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no garages or other freestanding buildings shall be erected within the curtilage of the dwelling hereby approved, other than those expressly authorised by this permission.

Reason: In the interests of visual amenity and the character of the area.

6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no fences, gates, walls or other means of enclosure, other than those expressly authorised by this permission, shall be erected or placed on the site.

Reason: In the interests of visual amenity and the character of the area.

7 All hard and soft landscaping shall be carried out in accordance with the following plans and information:

- Proposed perspective Dwg. No. 2553-031 Rev A.
- Proposed Landscaping Dwg. No. 2553-030 Rev A.
- Email from applicant dated the 20 January 2020.

Reason: To ensure that the new development will be visually attractive in the interests of amenity.

8 The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme of implementation approved under the terms of condition 7. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority.

Reason: To ensure that the new development will be visually attractive in the interests of amenity. To protect the existing trees on the site during the course of building work in the interests of amenity in accordance with the NPPF.

- 9 The finished floor levels of the buildings shall be carried out in accordance with the approved drawing: section plan 2553-029.

Reason: To ensure that the development integrates harmoniously with its surroundings and does not adversely impact upon existing residential properties.

- 10 All surface water and foul sewage drainage details shall be implemented in accordance with approved drawing number C6372/05 rev 1 before the development is first brought into use.

Reason: In order to ensure that satisfactory drainage arrangements are provided.

INFORMATIVES:

1. In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.